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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/574,726	05/18/2000	Geoffrey B. Rhoads	60195	9782

23735 7590 06/17/2005

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EXAMINER

AGWUMEZIE, CHARLES C

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/574,726

Applicant(s)

RHOADS ET AL.

Examiner

Charlie C. Agwumezie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 26-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2 pages</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of group 1 consisting of claim 1-14 and 26-29 is noted. Claims 1-14 and 26 –29 is pending in this application per response to office action filed by Applicant on April 4, 2005.

Response to Arguments

2. Applicant's arguments, see response to office action, filed on April 4, 2005, with respect to the rejection(s) of claim(s) 1-14 and 26-29 under Rhoads U.S. Patent 5,862,260 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Knowles et al U.S. Patent 5,869,819.

Claims 1-14, 26-29 have been examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 8-10**, are rejected under 35 U.S.C. 102(e) as being anticipated by Knowles et al U.S. Patent 5,869,819.

4. As per **claim 8**, Knowles et al discloses a method comprising:
presenting audio source material to a consumer, the material being encoded steganographically to convey plural-bit auxiliary data (fig. 12);
decoding the audio source material that is presented to the consumer to decode the auxiliary data therefrom (fig 17 and 18; col. 17, lines 1-15); and
using the plural-bit auxiliary data to retrieve information about the source material from a remote location (fig. 16 and 18; col.4, lines 34-47)

5. As per **claim 9**, Knowles et al further discloses the method that includes:
storing data indicating the audio source material(s) presented to the consumer (fig. 13; col. 5, lines 15-15, 45-55);
generating a report based on the stored data, indicating the audio source material(s) presented to the consumer (fig.13B).

6. As per **claim 10**, Knowles et al further discloses the method which includes detecting the presented audio source material with a microphone, and decoding the auxiliary data from a microphone output signal (fig. 17; col. 3, lines 4-15).

Claims 26, 28-29, are rejected under 35 U.S.C. 102(e) as being anticipated by Quackenbush et al U.S. Patent 6,493,457.

7. As per **claim 26**, Quackenbush et al discloses a method of altering music data to steganographically insert plural bits of watermark data therein (fig. 1), characterized by inserting a first group of said bits for benefit of an end-user of the music data (fig 1), inserting a second group of bits different than the first for benefit of an artist whose music is encoded by said music data (fig. 1) and inserting a third group of bits different than the first two for benefit of a distributor of the music data (fig. 1; col. 5, lines 5-30).

8. As per **claim 28**, Quackenbush et al further discloses the method in which the second group of bits includes bits representing a unique identifier for the music data, permitting machine identification of the data and royalty credit to the artist (col. 1, lines 43-55)

9. As per **claim 29**, Quackenbush et al further discloses the method in which the third group of bits represents usage restrictions to which audio appliances are responsive, thereby driving distribution of additional copies of the music data (col. 1, lines 43-55, col. 2, lines 13-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 7, 12 and 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Knowles et al U.S. Patent 5,869,819 in view of Overton et al U.S. Application Publication 2004/0205055.

10. As per **claim 1 and 11**, Knowles et al discloses a method comprising:
encoding digital source material to steganographically convey plural-bit auxiliary data (fig. 1, 2, 3, 4, 7, 9, 12 and 14; col. 1, lines 34-40, col. 2, lines 40-45, co. 5, lines 35-54);
passing the encoded source material to a destination through at least one intervening computer (fig. 1, 2, 15 and 17; col. 2, lines 61-67, col. 3, lines 1-25),
at said intervening computer, detecting encoded source material transmitted thereby (fig. 15, 16 and 17).

What Knowles et al does not explicitly disclose is

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crediting a payment in response to said detection of the encoded source material, in accordance with the plural-bit auxiliary data steganographically conveyed by the encoded source material.

Overton et al discloses method comprising:

crediting a payment in response to said detection of the encoded source material, in accordance with the plural-bit auxiliary data steganographically conveyed by the encoded source material (0392).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Knowles et al and provide the crediting a payment in response to said detection of the encoded source material, in accordance with the plural-bit auxiliary data steganographically conveyed by the encoded source material in view of the teachings of Overton et al in order to show alternative method of implementation.

11. As per claim 6, Knowles et al further discloses the method in which said transmitting includes distributing through a network of interconnected computers (see fig. 10 and 17).

12. As per claim 7, Knowles et al further discloses the method of reporting said detection to a location remote from detection (col. 4, lines 32-47).

What Knowles et al does not explicitly disclose is
crediting royalties based on detection.

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Overton et al discloses a method of crediting royalties based on detection (0392)

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Knowles et al and provide the method of crediting royalties based on detection in view of the teachings of Overton et al in order to show alternative method of implementation.

13. As per claim 12, Knowles et al failed to explicitly disclose the method that includes making said payment through the registry.

Overton et al disclose the method that includes making said payment through the registry (0392).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Knowles et al and provide the method that includes making said payment through the registry in view of the teachings of Overton et al in order to ensure alternative method of payment.

14. As per claim 14, Knowles et al further discloses the method in which the registry comprises a database accessible through the internet (col. 5, lines 45-55).

Claims 2-5, are rejected under 35 U.S.C. 103(a) as being unpatentable over Knowles et al U.S. Patent 5,869,819 in view of Overton et al U.S. Patent Application Publication 2004/0205055 as applied to claim 1 above, and further in view of Smith et al U.S. Patent 5,945,932.

15. As per claim 2, both Knowles et al and Overton et al failed to explicitly disclose the method which includes decoding plural-bit auxiliary data only from source material that has first been tested to indicate the likely presence of such auxiliary data therein.

Smith et al discloses the method which includes decoding plural-bit auxiliary data only from source material that has first been tested to indicate the likely presence of such auxiliary data therein (fig. 3).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Knowles et al and provide the method of which includes decoding plural-bit auxiliary data only from source material that has first been tested to indicate the likely presence of such auxiliary data therein in view of the teachings of Smith et al in order to avoid error in scanning.

16. As per claim 3, both Knowles et al and Overton et al failed to explicitly disclose the method which includes testing source material by reference to an encoding attribute that is supplemental to said encoded plural-bit auxiliary data.

Smith et al discloses the method which includes testing source material by reference to an encoding attribute that is supplemental to said encoded plural-bit auxiliary data (fig. 3).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Knowles et al and provide the

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method which includes testing source material by reference to an encoding attribute that is supplemental to said encoded plural-bit auxiliary data which includes decoding plural-bit auxiliary data in view of the teachings of Smith et al in order to avoid error in scanning

17. As per claim 4, both Knowles et al and Overton et al failed to explicitly disclose the method in which said attribute is the presence of a characteristic signature signal conveyed by said source material.

Smith et al discloses the method in which said attribute is the presence of a characteristic signature signal conveyed by said source material (fig. 5).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Knowles et al and provide the method in which said attribute is the presence of a characteristic signature signal conveyed by said source material in view of the teachings of Smith et al in order to avoid error in scanning

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knowles et al U.S. Patent 5,869,819 in view of Overton et al U.S. Patent Application Publication 2004/0205055 and Smith et al U.S. Patent 5,945,932 as applied to claim 1 above, and further in view of Wiser et al U.S. Patent Application Publication 2005/0065780.

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18. As per claim 5, both Knowles et al and Overton et al and Smith et al failed to explicitly disclose the method in which the signature signal is a repetitive noise burst signal.

Wiser et al discloses the method in which the signature signal is a repetitive noise burst signal (0049, 0056).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Knowles et al and provide the method in which the signature signal is a repetitive noise burst signal in view of the teachings of Wiser et al in order to ensure proper recording.

Claim 13, is rejected under 35 U.S.C. 103(a) as being unpatentable over Knowles et al U.S. Patent 5,869,819 in view of Overton et al U.S. Patent Application Publication 2004/0205055 as applied to claim 1 above, and further in view of Wiser et al U.S. Patent Application Publication 2005/0065780.

19. As per claim 13, both Knowles et al and Overton et al failed to explicitly disclose the method in which the object is a work of authorship, and the encoding adds a generally imperceptible level of noise to the object as it is perceived by a consumer thereof.

Wiser et al discloses the method in which the object is a work of authorship, and the encoding adds a generally imperceptible level of noise to the object as it is perceived by a consumer thereof (0056).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Knowles et al and provide the method in which the object is a work of authorship, and the encoding adds a generally imperceptible level of noise to the object as it is perceived by a consumer thereof in view of the teachings of Wiser et al in order to ensure proper recording.

Claim 17, is rejected under 35 U.S.C. 103(a) as being unpatentable over Quackenbush et al U.S. Patent 6,493,457 as applied to claim 26 above, and further in view of Knowles et al U.S. Patent 5,869,819.

20. As per **claim 27**, Quackenbush et al failed to explicitly disclose the method in which the first group of bits represents an internet address of a web site that may be accessed by end-users of the music data.

Knowles et al discloses the method in which the first group of bits represents an internet address of a web site that may be accessed by end-users of the music data (fig. 12).

Accordingly it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the system of Quackenbush et al and provide the the method in which the first group of bits represents an internet address of a web site that may be accessed by end-users of the music data in view of the teachings of Knowles et al in order to ensure alternative method of implementation.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is (571) 272-6838. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272 – 6712. The fax phone number for the organization where the application or proceeding is assigned is (703) 305-7687. [Official communications; including After Final communications labeled "Box AF"]. (703) 308-1396 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"].

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

acc

June 13, 2005


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